

APR 17 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

EDWARD JONES,

Plaintiff - Appellant,

v.

M. LOPEZ, Correctional Officer,

Defendant - Appellee.

No. 03-16533

D.C. No. CV-03-02049-PJH

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Submitted April 13, 2006^{**}

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

California state prisoner Edward Jones appeals pro se from the district court's judgment dismissing pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), his 42

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1983 action alleging that several items of his personal property were lost or stolen during a search of his cell conducted by defendant. We review de novo, *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order), and we affirm.

The district court properly dismissed Jones' action for failure to state a claim because California law provides an adequate remedy for the loss of his property. *See Barnett v. Centoni*, 31 F.3d 813, 816-17 (9th Cir. 1994) (per curiam) (“[N]egligent or intentional deprivation of a prisoner’s property fails to state a claim under section 1983 if the state has an adequate post deprivation remedy.”).

We decline to address contentions in Jones’s opening brief that are raised for the first time on appeal. *See Pfingston v. Ronan Eng’g Co.*, 284 F.3d 999, 1003-04 (9th Cir. 2002).

AFFIRMED.